



Due Diligence Form Instructions

RE: the Implementation and Coordination for Transfers of Trial Court Facilities under SB 1732

The documents requested below are items that the AOC will need to review in order to complete the Transfer Agreements and correlate to the Due Diligence Checklist (“DDL”) on the website. In addition, the items requested are consistent with the “Property Disclosure Documents” the AOC will be seeking pursuant to the Transfer Agreements. These due diligence items are requested because they are specifically tailored to discover important facility-related issues that would impact the preparation of the Transfer Agreements and related transfer discussions.

For your convenience, we have also provided a Due Diligence Checklist of the documents we are requesting and information listed in this letter and described in the Transfer Agreements. This checklist can be used by both parties as we move through the due diligence process to keep track of which items that have been delivered and which items that the counties have determined they do not have. We envision the attached checklist becoming a “living” document that can be updated and exchanged with respect to each court facility as due diligence documents are searched for and, where found, delivered to the AOC.

In addition, we want to make clear that by this letter, the AOC seeks only documents and information in the possession, custody or control of the County. We are not asking the County to develop or obtain any new information concerning its court facilities. However, as we proceed with the due diligence process, please alert those within the County who manage the County’s document retention program not to destroy any documents related to the court facilities until the transfers of responsibility for the court facilities in your County have been completed and the County and the AOC have determined which documents and information will need to be delivered into the custody of the State as part of the transfer process.

The documents the AOC wishes to review are described below and in the Due Diligence Checklist attached. The lists of specific materials requested in this letter and in the template Transfer Agreement are provided as examples to assist you to understand the types of documents and information that are relevant to the AOC’s due diligence process. We do not expect that every County will have all of these materials for every court facility.

Additionally, the AOC has contracted with an environmental consultant to perform the Phase I environmental site assessments and is currently in the process of contracting with one or more title and escrow companies that will, among other things, prepare preliminary title reports and issue title policies in connection with transfers of title. The main contact with the environmental firm should be included with the contact information provided during the initial meeting. The AOC will, of course, coordinate with you prior to the commencement of any Phase I site assessments for any of the court facilities. However, if, within the last six months, your County has already commissioned a Phase I site assessment for any of your court facilities, please let us know immediately and forward to us a copy of your recent Phase I reports. Where possible, we will use the County's existing Phase I reports to save time and costs in the transfer process.

To assist the AOC in completing its due diligence, the AOC respectfully requests that the County gather and coordinate the delivery of any information or documentation you have pertaining to the subjects listed below. Please understand that, as part of the AOC's mission to be cost effective and prudent with taxpayer funds, the AOC would like these documents so that we may utilize them, to the extent possible, to satisfy our reporting requirements to the State.

The documents of interest to the AOC include the following:

1. **MATERIAL AGREEMENTS.** Written/unwritten agreements and contracts relating to the title, ownership, use, occupancy or condition of each court facility (and any rights, benefits, liabilities, obligations or risks associated therewith), (i) for which termination requires advance notice by more than 30 days and/or (ii) which, individually, obligate the County to make an annual payment, or entitle the County to receive an annual payment, of over \$25,000.
2. **STRUCTURAL/PHYSICAL CONDITION.** Agreements or documents related to the design, construction and structural and/or physical condition of each court facility.
3. **ENVIRONMENTAL.** Documents evidencing, depicting or describing the environmental condition of each court facility.
4. **TITLE.** Title documents specifically dealing recorded title and exceptions, covenants, conditions and restrictions for each facility.
5. **APPRAISALS.** Any property appraisals and valuation reports in existence.
6. **COMPLIANCE.** Documents evidencing or related to each court facility's compliance with applicable laws, regulations and orders.

7. **OCCUPANCY**. Written/unwritten leases, subleases, rental agreements, licenses, occupancy agreements and arrangements or similar instruments, agreements or understandings between the County as landlord, sublandlord or licensor, and any third party creating a right for any such third party to possession, occupancy or use of all or any part of each court facility, and any notices or material correspondence relating thereto.
8. **INTANGIBLE RIGHTS AND OBLIGATIONS**. Documents evidencing or relating to the County's intangible personal property.
9. **PENDING PROJECTS**. Documents and agreements evidencing, depicting or related to any phase of a maintenance project on or involving court facilities which are deemed "pending" because either (i) the County's Board of Supervisors has approved the phase(s) in whole or in part at a Board of Supervisors meeting and allocated or appropriated money for the phase(s) in whole or in part, or (ii) the County has executed a contract for the phase(s) in whole or in part.
10. **INSURANCE COVERAGE, DAMAGE OR LOSS, CLAIMS**. Documents, correspondence and other agreements and materials related to insurance policies, claims, losses, casualties, events or occurrences that resulted in damage to, or destruction, theft or loss of, all or any part of the real or personal property to be transferred.
11. **CONDEMNATION**. Notices and correspondence concerning any actual or proposed condemnation or eminent domain proceedings, or any pending or proposed widening, modification or realignment of any street or highway contiguous to any court facility, that might result in a taking of all or any part of such court facility.
12. **LITIGATION**. Written descriptions of each pending or threatened claim, liability, litigation, arbitration, mediation, administrative proceeding, settlement negotiation or other dispute resolution proceeding involving, related to or affecting a court facility, including but not limited to personal injury claims (each a "Dispute"), descriptions of the current status of each Dispute, and contact information for the attorney primarily representing the County in each Dispute.
13. **HISTORICAL BUILDINGS**. For each court facility which includes one or more historical buildings, written evidence that each such building is either or both a "qualified historical building or structure" (as defined in Section 18955 of the California Health and Safety Code) and/or a building eligible for inclusion on the National Register of Historic Places under Section 470a of Title 16 of the United States Code;
14. **BONDED INDEBTEDNESS**. For each court facility that is subject to "bonded indebtedness," as defined in Section 70301(a) of SB 1732, any documentation, agreements, notices and material correspondence relating to such bonded indebtedness.

15. **EXCLUDED DOCUMENTS**. If there are materials that are responsive to the document and information request set forth in this letter, but which the County believes it may not disclose to the AOC for reasons of attorney-client privilege, attorney work product privilege or confidentiality obligations, the AOC requests that the County provide the AOC with a written list setting forth the title and general subject matter of each such document.

Furthermore, if there are any other written materials that relate to any other right, liability, condition or circumstance affecting any part of the court facilities and that are not specifically requested herein, please forward these along with the above-listed documentation. The AOC would also be most appreciative if the County would provide brief written descriptions of any undocumented rights, liabilities, conditions or circumstances affecting any of the court facilities; by way of example only, unwritten occupancy arrangements, easements, parking rights, and the like by either separate documentation and/or in the comment section provided within the checklist.

We understand that the task of compiling the documents and information requested above may appear daunting. Please know that the AOC is committed to doing what we can to minimize the burden and inconvenience associated with this process. If you have any questions, please do not hesitate to call. Thank you in advance for your attention and cooperation in this matter.